

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

MARY H. GRAHAM)	
)	
v.)	NO. 2:06-CV-180
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security)	

ORDER

It is hereby **ORDERED** that the defendant's motion for leave to file his objections to the Report and Recommendation of the Magistrate Judge twelve (12) days late is **DENIED**. [Doc. 16]. The defendant has cited no authority for his position that these untimely objections should be accepted by the Court.

The Court FINDS that this case does not fit within the narrow exception of *Kent v. Johnson*, 821 F.2d 1220 (6th Cir.1987). In *Kent*, the Sixth Circuit held that the interests of justice would be better served by addressing the *pro se* plaintiff's objections because those objections were filed one day late due to circumstances beyond his control. *Id.* at 1223. However, the facts of this case do not warrant that special consideration because the defendant has not shown that the failure to file his objections timely was beyond his control. There is no suggestion in this case that the Magistrate Judge's Report and Recommendation was not received in a timely

fashion, or that the defendant was unaware of the time limit within which to file objections. In fact, the Magistrate's Report and Recommendation stated on its face that objections must be filed within 10 days "or further appeal will be waived."

After careful consideration of the Report and Recommendation of the United States Magistrate Judge, [Doc. 15], it is hereby **ORDERED** that the Report and Recommendation is **ADOPTED** and **APPROVED**, the plaintiff's motion for judgment on the pleadings is **GRANTED**, [Doc. 9], the plaintiff is awarded benefits from November 26, 2002, and the defendant's motion for summary judgment is **DENIED**. [Doc. 12].

ENTER:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE